

PROVIDENCE COUNTY MOTION CALENDAR GUIDANCE ON ADMINISTRATIVE ORDER 2020-5 AND PROTOCOL FOR REQUESTING A REMOTE HEARING/CONFERENCE

This is intended to provide guidance on how Providence Motion Calendar matters will be handled under Supreme Court Executive Order 2020-9, Superior Court Administrative Order 2020-5 and Superior Court Protocol for Requesting a Remote Hearing/Conference issued on April 28, 2020 (“Remote Hearing Protocol”).

1. MATTERS TO BE CONSIDERED. The Motion Calendar Justice and/or designee(s) will address both dispositive and non-dispositive motions, including book account motions, as discussed below. Parties having district court appeals may contact the Motion Calendar Clerk at provmotions@courts.ri.gov to report the status and proposed next steps for those appeals.

2. PRESENTLY PENDING MOTIONS. To the extent previously filed motions that are not being heard as scheduled remain unresolved, Superior Court Administrative Order 2020-5 and the Remote Hearing Protocol provide that, by agreement, motions may be decided on the basis of the filed motion and/or objection without holding a hearing or may be decided with oral argument at remote/virtual hearings utilizing WebEx.

A. Waiving hearings. If there is agreement between the moving and non-moving parties to waive oral argument and proceed on the papers as filed, the moving party must:

- (1) Email the Motion Calendar Clerk that the parties waive the hearing for the motion. The email is to be sent to provmotions@courts.ri.gov, copied to the other parties, and should include in the email’s subject line the case number, case name, date the motion is scheduled for hearing and “waiver of hearing” or words to that effect; in the body of the email, counsel shall clearly state that the parties to the motion agree to waive hearing; and
- (2) Attach to the email the completed “Covid-19 Motion/Conference Request Form” promulgated with the Remote Hearing Protocol, checking the “Motion may be decided on the filings” box.

Exceptions. The option to waive a hearing on a motion does not extend to the following: (a) motions involving self-represented litigants, (b) motions to withdraw, or (c) motions for final judgment of default or dismissal. Unless a judicial officer determines otherwise, a hearing is required for such motions. Additionally, despite agreement by the parties on waiving hearings, there may be motions where a judicial officer requires a hearing; in such event, the parties will be notified.

Dispositive motions. Parties with dispositive motions may have already been contacted by the Motion Calendar Clerk about proceeding with disposition on the papers. If a party has already communicated with the Clerk to waive a hearing on a dispositive motion, there is no

need to respond again. However, to request a hearing, parties must follow the process set forth in the Remote Hearing Protocol.

Formal/unopposed motions. Counsel having motions that are “formal/unopposed” for the reason that no party is asserting an objection to the motion must secure the agreement of the non-moving parties as outlined above for a ruling to be made without a hearing. Counsel having motions that are “formal/unopposed” for the reason that there is no opposing party affected by the motion – such as motions to extend time for service of process or for alternative service – may request action on the motion without a hearing as outlined above, noting that the motion has no opposing party whose consent is required to proceed without a hearing.¹

Decisions and orders. The Clerk will enter the Court’s disposition of a motion on the docket and counsel will receive notice from the e-notify program entitled “Remote Motion Decided on the Papers.” After receiving such notice, counsel shall submit an appropriate order through the portal; orders should not be submitted prior to judicial action being taken on the motion.

B. Requesting hearings. Any party may request a hearing on a motion by following the process outlined in the Remote Hearing Protocol. Hearings required by a judicial officer will be scheduled by the Court directly with notice to the parties.

3. “NEW” MOTIONS. Parties may continue to file “new” motions and those motions likewise will be addressed on the papers/without a hearing or with argument at a virtual/remote hearing in accordance with Superior Court Administrative Order 2020-5 and the Remote Hearing Protocol.

A. Filing new motions. Although motions are not likely to be considered on the traditional Motion Calendar hearing days, for administrative purposes, the moving party shall select a “normal” motion day for the “hearing” or obtain a hearing date from the Motion Calendar Clerk where assignment is required.² In an attempt to address the “backlog” of motions presently pending on the Motion Calendar, and in light of the extension of all filing deadlines to May 29, 2020 set forth in the Supreme Court’s Executive Order 2020-9, for new non-dispositive motions parties are advised to select a hearing date no earlier than June 11, 2020.

B. Waiving hearings. Where judicial action is requested to be taken on a motion without a hearing, the moving party shall follow the process outlined in Section 2(A) above.

¹ Counsel having numerous such “formal/unopposed” motions are encouraged to contact the Motion Calendar Clerk directly to discuss the most efficient and effective way to communicate the formal/unopposed motions needing judicial action.

² Non-dispositive motions - any Thursday (with no less than 10 days’ notice); dispositive motions – Wednesdays, and for book account matters, the first Friday of the month, assignment of dispositive motion hearings by omnibus assignment forms required.

C. **Requesting hearings.** Any party seeking a hearing on a motion shall follow the process set forth in Section 2(B) above.

4. **CHANGES IN MOTION STATUS.** Parties may resolve motions by agreement at any time. Agreements on orders to enter must be reported to the Motion Calendar Clerk by email per the usual practice; orders must specify they are by agreement of the parties and be filed through the portal. Any changes to the status of the motion after a waiver of hearing is reported or a request for hearing is submitted must be immediately reported to the Court by emailing the Motion Calendar Clerk.

5. **MOTIONS WHERE NO ACTION IS TAKEN.** Subject to any other rule, statute, order or other legal requirement, there is no deadline for the parties to request that a motion be decided on the papers or to request a hearing. However, no judicial action will be taken on any motion unless a request to waive hearing or a request for hearing is submitted. Any motion not so addressed by the parties shall be deemed to automatically pass.

6. **RULE OF COURT MOTIONS.** Pursuant Executive Order 2020-9, all filing deadlines between March 17 and May 17, 2020 are automatically extended to May 29, 2020. Accordingly, the Court will take no action on Rule of Court motions scheduled between March 26 and May 28 until after May 29. After May 29, all Rule of Court motions on the calendar between March 26 and May 28 for which no objection was filed by May 29 will be granted. For Rule of Court motions where objections have been filed, the parties may waive a hearing or request a virtual hearing as set forth above.

7. **BENCH COPIES.** Hard copies of motions, objections, etc., along the principal case law relied upon (dispositive motions and substantive non-dispositive motions), are requested, but should be submitted by regular or overnight mail (no hand deliveries). Where the Covid-19 crisis makes photocopying and mailing difficult for the parties, paper bench copies are not required, but emailed bench copies are appreciated and may be sent directly to mdarigan@courts.ri.gov.

/s/ Melissa E. Darigan
April 30, 2020